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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 PEOPLE OF THE STATE OF
12 CALIFORNIA,

Plaintiff,

13 vs.

14 ANDREW J. MOORE,

15 Defendant.
16

CASE NO. 07 CV 2059 JM (BLM)

ORDER *SUA SPONTE*
REMANDING ACTION TO STATE
COURT AND DECLARING
MOTIONS TO PROCEED *IN*
***FORMA PAUPERIS* AND FOR**
SUMMARY JUDGMENT MOOT


17 On October 29, 2007, Defendant filed a Notice of Removal of a criminal case pending against
18 him in San Diego Superior Court. In addition, Defendant names “Officer stone/ Victor Morel #2312”
19 as a third-party defendant. Defendant seeks to remove the criminal proceeding pursuant to 28 U.S.C.
20 § 1443(1). Defendant also filed motions to proceed *in forma pauperis* (see Docket no. 2) and for
21 summary judgment (see Docket no. 3).

22 Section 1443 permits removal of certain state court criminal matters. To invoke federal
23 jurisdiction under § 1443, not only must a criminal prosecution be pending in state court, but the state
24 court defendant must demonstrate that he or she “is denied or cannot enforce in the courts of such
25 State a right under any law providing for the equal civil rights of citizens of the United States, or of
26 all persons within the jurisdiction thereof.” 28 U.S.C. § 1443(1). Upon careful review of the Notice
27 of Removal, Defendant fails to identify any cognizable civil right not enforceable in state court. Thus,
28 pursuant to 28 U.S.C. § 1446(c)(4), this action is summarily remanded to state court. Accordingly,

1 Defendant's motions to proceed *in forma pauperis* and for summary judgment are hereby declared
2 moot. The Clerk of the Court is instructed to close the file.

3 **IT IS SO ORDERED.**

4 DATED: November 2, 2007

5 
6 Hon. Jeffrey T. Miller
United States District Judge

7 cc: All parties
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